



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

JUL - 3 2008

Ref: 8ENF-W-NP

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

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The Corporation Company  
Registered Agent for Hunt Building Company  
1675 Broadway Ste 1200  
Denver, CO 80202

Mr. Gary Bain, Project Superintendent  
Hunt Building Company  
4700B E. Ponderosa Dr.  
USAFA, CO 80840

Re: Order for Compliance under section  
309(a) of the Clean Water Act

Dear Registered Agent:

Enclosed is a United States Environmental Protection Agency Region 8 (EPA) Order for Compliance (Order) issued to Hunt Building Company, Ltd. (Hunt). The Order specifies the nature of the violations under the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq. (CWA). The authority for such action is provided to EPA under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3). The Order describes the actions necessary in order for Hunt to achieve compliance with the CWA.

The CWA requires the Administrator of EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the CWA and any orders issued thereunder. Section 309 of the CWA provides a variety of possible enforcement actions, including the filing of a civil or criminal action (33 U.S.C. §§ 1319(b), (c), (d), and (g)). Section 508 allows for debarment from Federal contracts and/or loans for any noncompliance with the CWA or with an order issued pursuant to the CWA (33 U.S.C. § 1368).

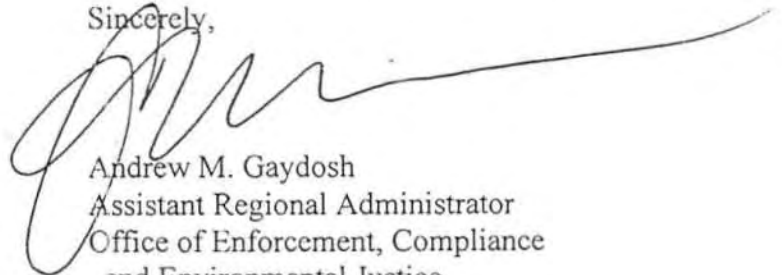
Enclosed with this Order is a copy of the report from the EPA Storm Water Compliance Evaluation Inspection at the Douglass Valley and Pine Valley sites on May 5, 2008. Please pay special attention to the Summary of Findings and Corrective Actions section of the report. Please note that the inspectors discussed their observations and/or concerns with Mr. Gary Bain

and Mr. Bruce Jackson during the exit briefing. Please refer to the timetable outlined in the Order for the timeline to respond to this inspection report.

The Douglass Valley and Pine Valley housing areas are on the Air Force Academy Base (AFA) and storm water from your project impacts the AFA Municipal Sanitary Storm Sewer System (MS4). Your response must be coordinated with the AFA's 10 CES/CEV Office. (You may wish to contact Mr. Matt Lewis, Water Quality & Hazardous Waste Manager at (719) 333-8394 for assistance in this matter.)

Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of the Order. If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to compliance with the CWA, the most knowledgeable people on my staff regarding these matters are Lee Hanley, Technical Enforcement, at (303) 312-6555, and Lorraine Ross, Enforcement Attorney, at (303) 312-6888.

Sincerely,



Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

cc: Tina Artemis, Regional Hearing Clerk  
Curtis Burns, CDPHE  
Mr. Robert K. Kelly, Hunt Development Group  
Matt Lewis, 10 CES/CEV  
Mr. Steven Stark, AFCEE/HPM  
Ms. Sue Stell, AFCEE/TDC



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2008 JUL -7 PM 3:03

In the Matter of: )  
)  
Hunt Building Company, Ltd. ) **ORDER FOR COMPLIANCE**  
a Texas corporation )  
)  
Respondent. ) Docket No. CWA-08-2008-0018

**LEGAL AUTHORITY**

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Federal Water Pollution Control Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, 402, and/or 405 of the Act, or of any permit condition or limitation implementing those sections. This authority has been properly delegated to the undersigned official.

**FINDINGS OF FACT AND LAW**

1. To restore and maintain the integrity of the nation's water, section 301(a) of the Act prohibits the discharge of pollutants into navigable waters of the United States, unless it is in compliance with a permit issued pursuant to the Act. 33 U.S.C. § 1311(a).
2. Section 402 of the Act establishes a National Pollutant Discharge Elimination System (NPDES) program, administered by EPA or an authorized state, to permit discharges into navigable waters, subject to specific terms and conditions. 33 U.S.C. § 1342.
3. The Act requires that a discharge of storm water associated with an industrial activity to navigable waters must comply with the requirements of an NPDES permit. 33 U.S.C. § 1342(p).
4. The Act authorized, and EPA issued, regulations that further define requirements for NPDES permits for storm water discharges. 33 U.S.C. § 1318, § 1342(p). The regulations are found at 40 C.F.R. part 122.
5. EPA regulations define discharges associated with industrial activity to include construction activity. 40 C.F.R. § 122.26(b)(14)(x).

6. EPA regulations require each person who discharges storm water associated with industrial activity to either apply for an individual permit or seek coverage under an existing and lawful general permit. 40 C.F.R. § 122.26(c).

7. Respondent applied for a general Federal NPDES permit for storm water discharges, COR10000F, attached as exhibit A (Permit). The permit number, COR10CK3F, was issued for this permit application, attached as exhibit B (permit coverage confirmation).

8. The permit requires, among other things, that a person discharging pollutants develop and implement an adequate storm water pollution prevention plan (SWPPP), conduct regular specified storm water inspections, and implement best management practices (BMPs). BMPs include structural controls (such as storm drain inlet protection) and management practices (such as minimizing any off-site pollutant discharges).

9. Respondent is a corporation, incorporated in the State of Texas, and doing business in the State of Colorado.

10. Respondent is a "person" within the meaning of section 502(5) of the Act and therefore, subject to the requirements of the statute and/or regulations. 33 U.S.C. § 1362(5).

11. Respondent is engaged in construction activities at a facility located at Douglass Valley and Pine Valley, Air Force Academy (AFA), CO (facility).

12. Respondent engaged in construction activities at the facility at all times relevant to this action.

13. Respondent is therefore engaged in an "industrial activity" as defined by EPA regulations. 40 C.F.R. § 122.26(b)(14).

14. Storm water, surface drainage, and run off water leave Respondent's facility and go into the AFA municipal separate storm sewer system (MS4).

15. The run off and drainage from Respondent's facility is "storm water" as defined by EPA regulations. 40 C.F.R. § 122.26(b)(13).

16. Storm water contains "pollutants" as defined by the Act. 33 U.S.C. § 1362(6).

17. The AFA MS4 at Pine Valley discharges to West Monument Creek, and at Douglass Valley discharges to Douglass Valley Stream, tributaries to Monument Creek, which flows to Fountain Creek which is "navigable water" and "waters of the United States," as defined by the Act and EPA regulations, respectively. 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2.

18. Respondent's storm water runoff is the "discharge of a pollutant" as defined by EPA regulations. 40 C.F.R. § 122.(b)(14)(x).



19. An authorized EPA employee entered the facility with the consent of Respondent on May 5, 2008, to inspect it for compliance with the statute, permit and regulations.

20. During the inspection, Respondent provided SWPPPs and construction activity records for both Pine Valley and Douglass Valley.

21. At the time of the inspection, Respondent was conducting ground disturbance activities beyond the permit coverage area. The permit coverage is for 30.5 acres in Douglass Valley and Pine Valley. The area of ground disturbance activities is greater than 30.5 acres in Douglass Valley alone.

22. Respondent's failure to obtain permit coverage for all areas of ground disturbance activities constitutes a violation of the Act. 33 U.S.C. § 1311, § 1342(p).

23. At the time of the inspection, Respondent's SWPPPs did not contain the following required components: an accurate description of the ground disturbance activities at Pine Valley, a map showing all ground disturbance activities at Douglass Valley and Pine Valley, a description of BMPs which will protect the storm drain inlets from the asbestos demolition activities in Pine Valley, management practices to address non-structural activities (i.e., securing portable toilets and managing construction materials), and signatory requirements in the Pine Valley SWPPP.

24. Respondent's failure to develop complete SWPPPs as required by the permit constitutes a violation of the Act. 33 U.S.C. § 1311, § 1342.

25. The permit requires Respondent to implement BMPs to minimize the impact of Respondent's construction activities on waters of the United States. At the time of the inspection, Respondent failed to implement BMPs at the storm drains to prevent asbestos-contaminated material from entering the storm drain and failed to implement/modify the BMPs around sand piles and at portable toilets that were upstream from storm drains.

26. Respondent's failure to implement BMPs as required by the permit constitutes a violation of the Act. 33 U.S.C. § 1311, § 1342(p).

27. Construction activities which disturbed over one acre commenced in Douglass Valley on December 21, 2007 (excavation for additions to renovated units), and in Pine Valley on January 14, 2008 (demolition of single housing units).

28. Section 301 of the Act and the storm water regulations at 40 C.F.R. § 122.26 require that a stormwater permit be obtained for construction activity including clearing, grading and excavation disturbing at least one acre. Respondent is covered under the Permit and subject to its terms and conditions.

29. On June 25, 2008, EPA confirmed with the Colorado Department of Public Health and Environment (CDPHE) that work had commenced at Pine Valley to remove asbestos-contaminated debris and soil. This activity is covered under an "Emergency Asbestos Spill And Contamination Response Workplan" for the U.S. Air Force Academy Military Housing, Pine Valley Family Housing, Colorado Springs, Colorado approved by CDPHE.

### ORDER

Respondent is ordered to perform the following actions:

30. Within 24 hours of receipt of this Order, submit a written notice of intent to comply with the requirements of this Order to EPA and CDPHE. The written notice may be transmitted by electronic correspondence, followed by telephone confirmation of receipt, to: Lee Hanley at [Hanley.Lee@epa.gov](mailto:Hanley.Lee@epa.gov), (303-312-6555); Darcy O'Connor at [Oconnor.Darcy@epa.gov](mailto:Oconnor.Darcy@epa.gov), (303-312-6392); and Curtis Burns at [CLBURNS@SMTPGATE.DPHE.STATE.CO.US](mailto:CLBURNS@SMTPGATE.DPHE.STATE.CO.US), (303-692-3153).

31. Within 48 hours of receipt of this Order, install and maintain BMPs at all storm drains in or adjacent to the area of asbestos and soil removal activities in Pine Valley. The BMPs implemented must ensure no debris or pollutants will enter the storm drains. The BMPs must be inspected daily and after each precipitation event to ensure their effectiveness.

32. Within 48 hours of receipt of this Order, install and maintain BMPs downstream from the asbestos and soil removal activities to prevent debris and/or sediment from entering the tributary to West Monument Creek. The BMPs must be inspected daily and after each precipitation event to ensure their effectiveness.

33. Within 24 hours of completing the installation of BMPs required by paragraphs 31 and 32, inspect and sample for asbestos contamination at the storm drain outfalls and along the drainage to the tributary to West Monument Creek. A sampling plan consistent with sampling methodologies developed by the CDPHE Asbestos Unit may be used. If asbestos contamination is present, a proposal for clean up activities must be submitted within 48 hours of confirmation of asbestos contamination. The sampling plan and the clean up proposal must be submitted to Curtis Burns at CDPHE and Lee Hanley at EPA in the manner specified in paragraph 30.

34. Within 24 hours of completing the installation of BMPs outlined in paragraphs 31 and 32, update the SWPPP for these activities.

35. Within 5 days of completing the installation of BMPs required by paragraphs 31 and 32, provide the updated section of the SWPPP outlined in paragraph 34, and photographic documentation of the BMPs installed pursuant to paragraphs 31 and 32 to Lee Hanley, EPA and Curtis Burns, CDPHE.

36. Within 20 days of receipt of this Order, address the deficiencies outlined in the Summary of Findings, attached as exhibit C. Respondent must implement all conditions in its

revised SWPPP in accordance with its Permit. Respondent must also amend the Permit application to include all areas of ground disturbance activities.

37. Within 20 days of receipt of this Order, review the inspection form and modify as needed to capture what BMPs are evaluated during ground disturbance activities at Douglass Valley and Pine Valley, the condition of the BMPs evaluated, what repairs/replacement are needed, and when the repair/replacement of the BMP occurred.

38. Within 20 days of receipt of this Order, conduct a meeting with the AFA 10 CES/CEV to review any impact to the AFA's MS4 that may have occurred as a result of ground disturbance activities in Douglass Valley and Pine Valley. Respondent shall correct any impact and revise the SWPPP to include any necessary future coordination with the AFA 10 CES/CEV or corrective action implementation process to minimize and/or prevent impact to the MS4.

39. Within 30 days of receipt of this Order, submit written documentation including photographs, where appropriate, for addressing paragraphs 36, 37, and 38.

40. Immediately upon completion of the "Emergency Asbestos Spill And Contamination Response Workplan," inspect and sample the storm drain system in and adjacent to the asbestos removal activities to ensure the area is asbestos free. Sampling must be conducted according to a sampling plan approved by the CDPHE Asbestos Unit. If asbestos contamination is present, a proposal for clean up activities must be submitted within 48 hours of confirmation of asbestos contamination. The storm drain sampling plan and the proposal for clean up must be submitted to Curtis Burns at CDPHE, and Lee Hanley at EPA. The AFA 10 CES/CEV must also be included in any correspondence regarding this activity.

#### **OTHER PROVISIONS**

41. All written notices and reports required by this Order shall be sent to the following address:

Lee Hanley (8ENF-W-NP)  
U.S. EPA Region 8  
Office of Enforcement, Compliance  
and Environmental Justice  
Technical Enforcement Program  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

42. All written notices and reports required by paragraphs 30, 31, 32, 33, 34, 35, and 40 of this Order shall also be sent to the following address:



Curtis Burns  
Indoor Environment Program  
Colorado Department of Public Health &  
Environment  
4300 Cherry Creek Drive South  
Denver, Colorado 80246

43. Any failure to comply with the requirements of this Order shall constitute a violation of the Order and may subject Respondent to penalties as provided under the Act. 33 U.S.C. § 1319.

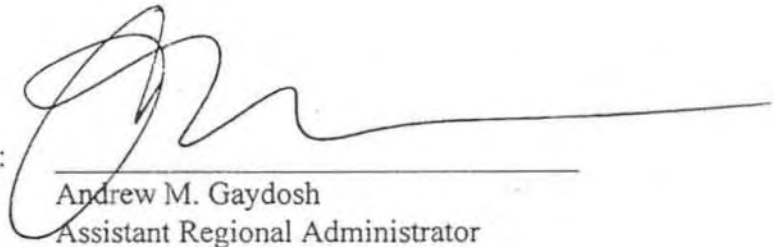
44. This Order does not constitute a waiver or modification of the terms and conditions of Respondent's Federal NPDES Permit which remains in full force and effect, or of any other legal responsibilities or liability.

45. This Order does not constitute a waiver of or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief under the Act. The Act authorizes the assessment of civil penalties of up to \$32,500 per day for each violation of the Act, and fines and imprisonment for willful or negligent violations. 33 U.S.C. § 1319.

Date:

7/3/08

By:

  
\_\_\_\_\_  
Andrew M. Gaydosh  
Assistant Regional Administrator